IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5867 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE R.R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

BHARATSINH BHAGWANSINH PUWAR

Versus

STATE OF GUJARAT THROUGH SECRETARY

Appearance:

MR DP VORA for Petitioner

M/S PATEL ADVOCATES for Respondent No. 1

NOTICE SERVED for Respondent No. 2

MR KETAN A DAVE for Respondent No. 3

Mr.Anant S. Dave for respondent no.4.

CORAM : MR.JUSTICE R.R.TRIPATHI

Date of decision: 02/05/2000

ORAL JUDGEMENT :

This petition is filed for getting pension from the Central Government for the services rendered in Sabarkantha agency in Police Department. It is the case

of the petitioner that he reached the age of superannuation in the year 1964 in the State service. It is the case of the petitioner that the petitioner was also to get pension for his services rendered in the Central Govt. and the same was received by the petitioner from 1945 till 1974. However, in 1974, the pensions receivable by the petitioner from the State and Central Governments were merged together and that the petitioner was paid only one pension. It was till 1985 that the petitioner did not object to the same. In the year 1985, the petitioner filed a representation before the authorities and requested the authorities to bifurcate the pension payable to him by the Central and State Governments and pay the same separately. However, the authorities did not pay any heed to the request until he filed the present petition, Special Civil Application No.5867 of 1996. This Court (Coram: M.R. Calla, J.) has passed an order in this matter on 19.2.1997 as under :

"Mr.Bambhania, ld. AGP submits that the consolidated pension is being paid to the petitioner. So far as the question of bifurcating the amount of pension is concerned it can be considered only when the record is made available by respondent no.3, i.e. Accountant General. It is also submitted that a letter has already been sent to the Finance Department of Govt. of Gujarat and the Accountant General. Mr.Ketan Dave who appears for respondent no.3 submits that if any record is lying with the office of the Accountant General, the same will be sent to the State Govt. within a period of two weeks from today. The State Govt. would take appropriate decision in accordance with law on the question of bifurcation of the amount of pension within a period of two weeks and Mr.Bambhania would apprise the court regarding the decision taken by the Govt. and place the same on record, on or before 21st March 1997. Thereafter, if any grievance of the petitioner survives, the matter shall be finally heard on the same day, 19th February 1997."

2. Mr.D.P. Vora, learned advocate for the petitioner submits that in spite of the aforesaid order, the authorities did not act upon the same. The govt. neither took any decision nor placed the same on record which was to be done by 21.3.2000. The petitioner was hopefully waiting for the said decision to be taken and placed on record and the matter be listed for hearing.

However, when his patience exhausted he filed a Civil Application No.222 of 2000 in which an order was passed on 24.1.2000 to the effect that the Union Ministry of Home Affairs be impleaded as party respondent no.4 and the rule was issued in the said Civil Application. Mr.Anant S. Dave, learned advocate appears for the newly added respondent, Union Ministry of Home Affairs.

3. Today, when the matter is called out, Mr.Anant S. Dave, placed on record, a letter dated 6.4.2000, addressed by the Union Ministry of Home Affairs to the Pay & Accounts Officer (Pension & Miscellaneous), Ministry of Home Affairs, New Delhi. Mr.Dave pointed out that the Ministry of Home Affairs has already issued necessary directions to the Pay & Accounts Officer to pay the petitioner the amount which is mentioned in para (I), which reads as under:

"The Govt. of India is requested to issue an authority in respect of Shri B.B. Puwar authorising him the following pensionary benefits:

(i) Central Pension @ Rs.8.87 p.m. + T.I. w.e.f. 1.12.74 to 31.12.85 which may be updated to minimum pension of Rs.60/- p.m. for the above period.

(ii) Pension @ Rs.375/- p.m. + T.I. w.e.f. 1.1.86 till 31.12.95; and

(iii) Pension @ Rs.1275/- p.m. + DR w.e.f. 1.1.96 till his death.

(iv) The above payment may please be authorised as payable from Modasa Treasury under T.O. Himmatnagar, Sabarkantha Dist. Gujarat State with a foot note that Shri B.B. Puwar was paid Central Pension on PPO No.G/C/ 4101 from 1.9.45 to31.1.74."

Mr.D.P. Vora, learned advocate submitted that the petitioner was deprived of his legitimate dues, which were ordered to be paid by the Ministry of Home Affairs, without any justifiable reason, and therefore, the authorities shall be directed to pay interest on the same from the date the amount was withheld.

4. The request of Mr.Vora is supported by an additional factor that the petitioner is 91 years old, his date of birth is 16.2.1909. However, said request

cannot be accepted in toto inasmuch as it is on record that after the Central and State pensions were merged together in 1974, the petitioner did not make any grievance about the same till 1985. It was only in 1985 that the petitioner made grievance for the first time. Thereafter, the petitioner did not approach any court of law for quite long. It was only in 1996 that the petitioner approached this Court by filing the present petition. Hence it would be just and proper if the authorities are directed to pay interest from the date of filing of the present petition.

5. Mr.Anant S. Dave, learned advocate for respondent no.4 states that no interest shall be awarded on the amount inasmuch as the amount is now going to be paid to the petitioner and as the representation was not addressed to a particular officer, delay is caused in dealing with the papers in the Govt. departments. The submission of Mr.Anant S. Dave is devoid of any merit in view of the fact that at least from the date when this Court passed an order in the year 1997 and directed the respondent authorities to place decision on record, the respondents are in know of the matter. Mr.Dave further submitted that at the relevant time Ministry of Home Affairs was not a party in this petition. This submission also cannot be accepted in view of the order passed by this Court (Coram : Ms.R.M. Doshit, J.) on 1.8.1997, which reads as under:

> "Heard ld. advocates for the parties. Mr.Dave, Addl. Standing Counsel appearing for the Central Govt. states that the office of the Accountant General, Ahmedabad has made suitable proposal to the Ministry of Home Affairs, New Delhi, on 29th July 1997 and the necessary orders shall be made by the said Ministry within a period of three to four months. In view of the said statement no further order is required to be made at this stage. The Registry is directed to place this petition for final hearing in due course."

6. Taking into consideration the totality of the circumstances, this Special Civil Application is allowed. The respondent authorities shall pay the amount as mentioned in letter dated 6.4.2000 of the Union Ministry of Home Affairs along with interest at the rate of 12% per annum from the date of filing of the petition, (Special Civil Application No.5867 of 1996), as early as possible, but not later than six weeks from the date of receipt of writ of this Court. Rule is made absolute accordingly with no order as to costs.

2nd May 2000 (Ravi R. Tripathi, J.)

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